



**Interlocal Agreement
CITY OF AUSTIN
RECOMMENDATION FOR COUNCIL ACTION**

**AGENDA ITEM NO.: 6
AGENDA DATE: Thu 08/04/2005
PAGE: 1 of 2**

SUBJECT: Approve negotiation and execution of the First Amendment to the Interlocal Agreement between the City of Austin and the Travis County Hospital District to increase Service Operating Payments to the City for a portion of the initial term; describe support services to be provided to the Hospital District by the Communications Technology Management Department; and summarize the responsibilities of a new employee to be hired by the Hospital District.

AMOUNT & SOURCE OF FUNDING: Funding in the amount of \$22,346 will be available in the net transfer of funds from the Travis County Hospital District to the City of Austin in Fiscal Year 2004 -2005.

FISCAL NOTE: A fiscal note is attached.

REQUESTING Community Care
DEPARTMENT: Services

**DIRECTOR'S
AUTHORIZATION:** David Vliet

FOR MORE INFORMATION CONTACT: Debra Hedges, Chief Administrative Officer/972-4045;
Nancy Gilliam, Business Process Consultant/972-4039

PRIOR COUNCIL ACTION: Negotiation and execution of Hospital District Interlocal approved on September 13, 2004.

BOARD AND COMMISSION ACTION: N/A

PURCHASING: N/A

MBE / WBE: N/A

The City of Austin ("City") entered into an interlocal agreement with the Travis County Hospital District ("District"), effective October 1, 2004, under which the City's Community Care Services Department operates the community health clinics, the Medical Assistance Program, and charity care programs on behalf of the District. The District pays the City monthly Service Operating Payments and Service Reimbursement Payments to cover the City's costs of providing the services.

The primary purpose of this amendment is to amend the Service Operating Payments to the City for a portion of the initial term. The amendments are due to: increases in salaries for certain CCS employees, effective March 1, 2005; assignment of three service contracts by the City to District, effective June 1, 2005; and increased payments that the District agreed to make to Travis County for clinic lease payments and expenses.

The net effect is increased Service Operating Payments from the District to the City from March through September of this year. The District's Board of Managers has amended its current budget to approve these increased payments to the City. The first amendment also describes support services that will be provided



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to the District by the City's Communications and Technology Management Department (and the payments to be made to City for those services), and responsibilities of a new employee the District will hire who will work with Community Care Services Department staff.

**FIRST AMENDMENT TO THE
INTERLOCAL AGREEMENT BETWEEN TRAVIS COUNTY HOSPITAL
DISTRICT AND CITY OF AUSTIN, TEXAS**

This First Amendment to the Interlocal Agreement between the Travis County Hospital District and the City of Austin, Texas ("First Amendment") is entered into this ____ day of August, 2005, and is effective as of March 1, 2005.

Whereas, the Travis County Hospital District (the "District") and the City of Austin, Texas (the "City") entered into an interlocal agreement, effective on October 1, 2004, ("Interlocal Agreement") under which the City manages community health centers and provides certain other services to the District; and

Whereas, the District and the City wish to amend the Interlocal Agreement to (1) amend the Service Operating Payments to reflect: (a) pay increases, effective March 1, 2005, for certain employees who perform services for the District under the agreement, and (b) the transfer of financial responsibility from the City to the District for three service contracts that were assigned to the District on June 1, 2005; and (2) describe computer and telecommunications support and equipment to be provided to District; and (3) amend the notice provision;

Therefore, the District and the City hereby agree as follows:

1. Exhibit H, entitled "Service Payments," shall be amended in its entirety as follows:

**EXHIBIT H
SERVICE PAYMENTS**

Service Operating Payments:

The District shall pay the following amounts by the first day of each month indicated as Service Operating Payments:

10/04	\$3,479,366	02/05	\$3,479,366	06/05	\$3,462,616
11/04	\$3,479,366	03/05	\$3,500,116	07/05	\$3,462,616
12/04	\$3,479,366	04/05	\$3,500,116	08/05	\$3,476,164
01/05	\$3,479,366	05/05	\$3,500,116	09/05	\$3,476,164

[as supported by the schedule attached hereto as Attachment 1; provided, however, that, notwithstanding any other provisions of this Agreement to the contrary, so long as during the period prior to March 2005 the District applies towards such payments or to the Service Reimbursement Payments what the District reasonably can dedicate to such purpose from revenue collected by the District less the administrative expenses paid during such period for the District, (1) the amounts indicated in the months with asterisks shall be considered earned and unpaid, but not due, and (2) no interest shall accrue on such earned and unpaid amounts until March 1, 2005, but (3) all such earned and unpaid amounts shall be due on March 1, 2005.

Service Reimbursement Payments:

The District shall pay the following amounts by the first of each month indicated as Service Reimbursement Payments:

10/04	\$1,269,878.99
11/04	\$1,269,878.99
12/04	\$1,269,878.99
01/05	\$1,269,878.99

provided, however, that, notwithstanding any other provisions of this Agreement to the contrary, so long as during the period prior to March 2005 the District applies towards such payments or to the Service Reimbursement Payments what the District reasonably can dedicate to such purpose from revenue collected by the District less the administrative expenses paid during such period for the District, (i) the amounts indicated in the months with asterisks shall be considered earned and unpaid, but not due, and (2) no interest shall accrue on such earned and unpaid amounts until March 1, 2005, but (3) all such earned and unpaid amounts shall be due on March 1, 2005.

For purposes of the District's obligations to apply toward Service Payments what the District can reasonably dedicate to such purpose from revenue collected by the District less administrative expenses paid during such period for the District in this Exhibit H, no sums transferred to the District by either the City or Travis County shall be considered revenue collected by the District.

The parties are entering into this First Amendment several months following the effective date and have calculated the adjusted Service Operating Payments for the period March through July of 2005. The parties agree that, due to the above-described amendments to the Service Operating Payments, the District owes City \$103,750.00 to reflect the increased employee salaries, and City owes District \$75,000.00 to reflect the decreased contract amounts City was responsible for in June and July due to the assigned contracts. Consequently, the net amount owed is \$28,750.00, and District hereby agrees to submit to City a payment of \$28,750.00 within thirty days following the final execution of this First Amendment.

2. The following provision is added to the Agreement as Section 3(a)(vii) to describe the computer and telecommunications support to be provided by City.

Section 3(a)(vii)

The City, through its Communication Technology Management Department ("CTM"), shall provide the District with up to four Workstations and with telecommunications and computer network support for each Workstation. As used in this Agreement, the term "Workstation" means a personal computer, attached printer, and a telephone for a District employee. The Workstations and support services shall be provided as follows:

- One Workstation has been provided to District as of the date this First Amendment is being executed, and City shall convey title of such Workstation to County by August 15, 2005. At least three additional Workstations shall be provided upon

request by the District's President and CEO. If more than three additional Workstations are requested by the District, they shall be provided upon approval of the Director of CTM.

- CTM staff shall provide support services to District employees regarding their Workstations and the District's computer network beginning April 1, 2005.

In consideration of such support services, District will pay City \$84.00 per month for each Workstation that is in use during a particular month. In addition, District shall pay City an amount equal to the City's cost for each Workstation that is delivered to District between June 1 and October 1, 2005. District shall pay City for support services and for Workstations that have been delivered on a monthly basis, within thirty (30) days of the date of City's invoice, provided however, that District shall pay City for the support services provided from April through July of 2005 within thirty (30) days following execution of this First Amendment.

Title to each Workstation delivered on or after June 1, 2005, shall be conveyed to the District upon payment for such Workstation. The payment obligations described in this subsection (vii) are in addition to Service Operating Payments and Service Reimbursement Payments that District is obligated to pay City. The parties agree that the fee amounts for support services set forth in this subsection are valid through September 30, 2005, and future fees shall be mutually agreed upon in writing.

3. Healthcare Administrator

District will hire an employee to provide oversight and joint management of primary and specialty care practices, the emergency department, and the emergent and urgent care center in partnership with Seton Healthcare and other community healthcare partners. This employee, referred to herein as the "Healthcare Administrator," will report to the District's President and CEO. The Healthcare Administrator may have office space in the City's Community Care Services Department ("CCS") and shall have an indirect reporting relationship to the CEO of CCS.

The Healthcare Administrator shall work with those CCS staff members designated by the CCS CEO and shall assist in coordinating prompt and efficient patient care services for clinic patients by both the clinics and by Seton hospital facilities, including the specialty care clinics operated by Brackenridge Hospital. In this role, the Healthcare Administrator will need access to protected health information of clinic and Seton patients, and the District will therefore enter into a HIPAA Business Associate Agreement with both the City and Seton. The Business Associate Agreement between the District and City is attached and incorporated into this Agreement for all purposes as Exhibit "A." The Healthcare Administrator shall be trained in the City's HIPAA policies and procedures, and shall sign a confidentiality statement that is mutually agreed upon by City and District. The Healthcare Administrator's continued access to protected health information shall be subject to such access being in compliance with applicable patient privacy laws and with HIPAA policies and procedures. If the Healthcare Administrator is, in the opinion of the City, not performing his or her job adequately, City shall provide notice of such to the District President and CEO and the District shall discuss the City's concerns with the City, and the parties

agree to work together in good faith to try to resolve the issue. The parties further agree that the District shall be solely responsible for the Healthcare Administrator's compensation and for any employment-related benefits, including but not limited to worker's compensation, taxes, and any health and retirement benefits.

4. Section 11, entitled "Notices," shall be amended in its entirety as follows:

11. Notices. Any notice required or permitted by this Agreement shall be sufficient for all purposes if delivered in writing to the applicable party at its address set forth below or such other address as may be designated by such party in writing.

City:

Toby Hammett-Futrell
City Manager
P.O. Box 1088
Austin, Texas 78767-8804
(if by mail)

Toby Hammett-Futrell
City Manager
City Hall
301 West 2nd, Fourth Floor
Austin, Texas 78701
(if by hand-delivery)

With copies to:

David Allan Smith
City Attorney
P.O. Box 1088
Austin, Texas 78767-8804
(if by mail)

David Allan Smith
City Attorney
City Hall,
301 West 2nd, Fourth Floor
Austin, Texas 78701
(if by hand-delivery)

David B. Vliet
CEO
City of Austin Community Care Services Dept.
15 Waller, 5th Floor
Austin, Texas 78702
(if by mail or hand-delivery)

District:

Patricia A. Young Brown
President and CEO
Travis County Hospital District
1111 E. Cesar Chavez, Suite B
Austin, Texas 78702
(if by mail or hand-delivery)

With a copy to:

Travis County Attorney's Office
ATTN: Stacy E. Wilson
P.O. Box 1748
Austin, Texas 78767
(if by mail)

Travis County Attorney's Office
ATTN: Stacy E. Wilson
314 West 11th Street, Suite 400
Austin, Texas 78701
(if by hand-delivery)

IN WITNESS WHEREOF, this First Amendment has been executed and delivered on behalf of the District and the City by their duly authorized representatives in one or more counterparts, which together shall constitute one agreement.

TRAVIS COUNTY HOSPITAL DISTRICT

By: _____
Name: Patricia A. Young Brown
Title: President and Chief Executive Officer,
Travis County Hospital District

CITY OF AUSTIN, TEXAS

By: _____

Name: Michael McDonald

Title: Acting Assistant City Manager, City of
Austin

EXHIBIT A

Business Associate Agreement under the Health Insurance Portability and Accountability Act of 1996

Background:

The parties to this agreement have entered into a contract (hereinafter referred to as the base contract) under which the City of Austin's Community Care Services Department (hereafter referred to as "City") may provide or make available to the Travis County Hospital District's Healthcare Administrator, or the Healthcare Administrator may create or receive on behalf of City, certain information that is confidential and must be afforded special treatment and protection under the Health Insurance Portability and Accountability Act of 1996 (HIPAA). The Healthcare Administrator, who will be employed by District, may have access to or receive from the City or create or receive on behalf of the City certain individually identifiable health information that can be used or disclosed only in accordance with this agreement or the base contract and the privacy rule adopted by the U.S. Department of Health and Human Services (HHS) under HIPAA, 45 C.F.R §§ 160.101-312, §§ 164.500-534. District is a Business Associate of the City as that term is defined in the HIPAA privacy rule, 45 C.F.R. § 160.103.

I. The City and the District agree:

City may provide or make available to Healthcare Administrator, or Healthcare Administrator may create or receive on behalf of the City individually identifiable health information (collectively referred to as "City PHI") in order to assist City in coordinating prompt and efficient patient care services for clinic patients by both the clinics and by Seton hospital facilities, including the specialty care clinics operated by Brackenridge Hospital. The parties agree that access to City PHI will be limited to the minimum amount necessary for Healthcare Administrator to perform his or her responsibilities as described in the base contract.

A. Healthcare Administrator is prohibited from using or disclosing the City PHI for any purpose other than as expressly permitted or required by this Business Associate Agreement or the base contract.

B. Healthcare Administrator is permitted to use or disclose the City PHI to accomplish the purposes of the base contract. To be permissible, the use or disclosure may not violate the HIPAA privacy rule and must be limited to the minimum necessary to accomplish the purpose of the use or disclosure.

C. Additional purposes for which Healthcare Administrator may use or disclose the City PHI:

1. District may *use* the information for the proper management and administration of District or to carry out District's legal responsibilities.
2. District may *disclose* the information for the proper management and administration

of District or to carry out District's legal responsibilities if:

- a. the disclosure is required by law, or
- b. District obtains the following assurances from the person to whom the information is disclosed:
 - (i) that the person will maintain the confidentiality of the information;
 - (ii) that the person will use or further disclose the information only as required by law or for the purpose it was disclosed to the person; and
 - (iii) that the person will notify District of any breaches of confidentiality.

D. The term of this agreement will commence upon execution of the First Amendment to the base contract and shall expire when all of the protected health information provided by the City to District is destroyed or returned to the City.

II. District agrees:

A. It will establish and maintain appropriate safeguards to prevent any use or disclosure of the City PHI, other than as provided for by this agreement or the base contract.

B. It shall immediately report to the City any use or disclosure of City PHI not provided for or allowed by this agreement or the base contract.

C. Anytime City PHI is to be provided or made available to any subcontractors or agents, District must enter into a subcontract with the subcontractor or agent that contains the same terms, conditions, and restrictions on the use and disclosure of that information as contained in this agreement. District must obtain the City's approval prior to entering into a subcontract that requires possible release of the City's PHI.

D. It will make information in a designated record set available to the City or, as directed by the City, to the subject of the City PHI to comply with the requirements under 45 C.F.R. § 164.528.

E. It will make City PHI in a designated record set available for amendment and incorporate any amendments to this information in accordance with 45 C.F.R. § 164.526.

F. It will document and make available to the City the information required to provide an accounting of disclosures in accordance with 45 C.F.R. § 164.528.

G. It will make internal practices, books, and records relating to the use or disclosure of City PHI received from, or created or received by District on behalf of the City, available to the Secretary of Health and Human Services for purposes of determining compliance with the privacy regulations.

H. Once it finishes providing services under the base contract, it will return, destroy, or continue to maintain appropriate safeguards for all City PHI information received from the City or created or received on behalf of the City. If District destroys the City PHI, it must certify to the City that the City PHI has been destroyed. District may not elect to destroy City PHI that must be retained under federal or state law, and must maintain appropriate safeguards for the City PHI as long as District has it.

I. It will have procedures in place for mitigating, or the maximum extent practicable, any deleterious effect from the use or disclosure of City PHI in a manner contrary to the contract, including this exhibit, or the HIPAA privacy regulations.

J. It will develop and implement a system of sanctions for any employee, subcontractor or agent who violates this agreement or the privacy regulations.

K. Any violation by District of a material term of this agreement will be considered a breach of contract if District knew of the violation and failed to immediately take reasonable steps to cure it.

L. City has a right to terminate this agreement and the base contract if the City determines that District has violated a material term of this agreement.

III. Miscellaneous

A. Notwithstanding any rights or remedies provided for in the base contract, the City retains all rights to seek injunctive relief to prevent or stop the unauthorized use or disclosure of City PHI information by District or any agent, subcontractor or third party that received City PHI information from District.

B. This agreement shall be binding on the parties and their successors, but neither party may assign this agreement without the prior written consent of the other, which consent shall not be unreasonably withheld.

C. Except as otherwise specified in the base contract, if any legal action or other proceeding is brought for the enforcement of this Business Associate Agreement, or because of an alleged dispute, breach, default, misrepresentation, or injunctive, action in connection with any of the provisions of this Business Associate Agreement, each party shall bear its own legal expenses and the other costs incurred in the action or proceeding.

ATTACHMENT 1

CCSD to Travis County Hospital District Interlocal First Amendment to Interlocal

Original Interlocal Amount	\$41,752,392
	<u>12</u>
	\$3,479,366

	<u>Original</u> <u>Interlocal</u>	<u>Wage</u> <u>Adjustment</u>	<u>Service</u> <u>Contracts</u>	<u>Travis Co.</u> <u>Interlocal Incr</u>
Amendment Amount >		\$145,250	(\$150,000)	\$27,096
Number of effective months >		7	4	2
Monthly Amount >		\$20,750	(\$37,500)	\$13,548
Effective Date >		3/1/05	6/1/05	8/1/05

<u>Month</u>				
Oct-04	\$3,479,366			
Nov-04	\$3,479,366			
Dec-04	\$3,479,366			
Jan-05	\$3,479,366			
Feb-05	\$3,479,366			
Mar-05	\$3,479,366	\$20,750		
Apr-05	\$3,479,366	\$20,750		
May-05	\$3,479,366	\$20,750		
Jun-05	\$3,479,366	\$20,750	(\$37,500)	
Jul-05	\$3,479,366	\$20,750	(\$37,500)	
Aug-05	\$3,479,366	\$20,750	(\$37,500)	\$13,548
Sep-05	\$3,479,366	\$20,750	(\$37,500)	\$13,548
	\$41,752,392	\$145,250	(\$150,000)	\$27,096

Total Fiscal Year Increase to Interlocal

ATTACHMENT 1

<u>Amended</u> <u>Interlocal Amt</u>	<u>July</u> <u>Catch-up</u>
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\$3,479,366

\$3,479,366

\$3,479,366

\$3,479,366

\$3,479,366

\$3,500,116

\$3,500,116

\$3,500,116

\$3,462,616

\$3,462,616 \$28,750

\$3,476,164

\$3,476,164

\$41,774,738

\$22,346